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FREEDOM OF MOVEMENT

Written statement submitted by the Open Society Institute, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 July 1998]

GE.98-13496 (E)

Introduction

1. The Forced Migration Projects of the Open Society Institute seek to prevent or ameliorate causes of forced displacement, to protect and assist refugees and displaced persons, and to provide durable solutions to those seeking to re-establish their lives. Activities focus on the former Soviet Union, the former Yugoslavia, and certain countries in the Americas.

Former Soviet Union

2. Population displacement remains one of the main problems of the former Soviet Union as armed conflicts and systematic human rights violations continue to affect the region. To alleviate such problems, the forced Migration Projects have advocated several initiatives. In particular, the 1996 Commonwealth of Independent States (CIS) conference on migration-related issues should be reconceived and reinvigorated. Inspired by the consequences of the dislocation of some 9 million people after the breakup of the Soviet Union in 1991, the International Organization for Migration, the Organization for Security and Cooperation in Europe, and the Office of the United Nations High Commissioner for Refugees organized the 1996 conference. Although the CIS conference process has had accomplishments, a new approach is needed to implement the plans promulgated in 1996.

3. Genuine progress in these areas would require a concerted effort by Governments, intergovernmental assemblages, international institutions and non-governmental actors to address a wide array of issues pertaining to financial infrastructure, sustainable development and human rights. These efforts would also include the international and regional lending institutions as well as a variety of international entities involved in physical and human development which should be equal partners in conference follow-up activities. Benchmarks should be established, to allow donor countries to assess the productive use of pledged funds, or to indicate the need to impose appropriate measures of conditionality.

4. Additionally, the work of NGOs in the region should be strengthened. Among the many benefits of NGOs are contributions to support for democratic institutions, social stability and the rule of law. Encouraging the emergence of a network of NGOs in the former Soviet Union could help avert the causes and ameliorate the consequences of forced migration. The 1996 CIS conference Working Group on NGO Legislation, which is led by the Forced Migration Projects, has endeavoured to formulate realistic objectives to reinvigorate the emergence of a vibrant NGO regional network. The Working Group's main goals are: to foster greater government awareness of the potential benefits of a strong independent sector, to enunciate improved registration and tax law proposals, and to promote increased dialogue between NGOs and CIS Governments.

5. To this end, tax and registration laws must be reformed in order to facilitate the work of NGOs. Many laws throughout the region hinder the formation and operation of NGOs. Despite the international recognition given to the right to freedom of association, most CIS States require NGOs to register with the Government to become a "legal person" or "legal entity". Those laws do not clearly define the legal status of an unregistered NGO or make clear the conditions under which a public organization may operate.

6. Taxation policies must also be revised. At present, tax laws in CIS countries are often confusing, even contradictory. There are very few reduced rates or exemptions for non-profit organizations. Special tax statuses are frequently based not on the distinctive nature of NGOs, but on organizational purposes, the source or use of funds, and are even sometimes designated for specific organizations. Tax benefits are likely to be given to Government-supported associations whose public benefit, form and purpose may resemble those of independent NGOs but which are not truly independent NGOs. Such tax and registration laws must be amended to facilitate the work of NGOs.

Former Yugoslavia

7. Regional and subregional arrangements on citizenship and property rights are required to promote the voluntary return of refugees and displaced persons after the conflict in the former Yugoslavia. Indeed, the breakup of Yugoslavia dispersed its citizens over different States, both within and outside old borders, making a comprehensive regional approach necessary. Although comparatively peaceful conditions currently prevail in the region, wartime property laws, non-implementation of revised property laws, and inadequately addressed issues of citizenship remain key obstacles to safe repatriation. Wartime property laws hinder the return of those who fled by favouring current occupants of real property. Citizenship laws have left certain groups stateless as successor States cannot agree on formulas that extend citizenship status to all citizens of the former Yugoslavia.

8. It is vital that the international community play an active role in overseeing the establishment of regional and sub-regional arrangements that promote fair and adequate laws on property and citizenship rights. A model agreement on citizenship law proposed by the Forced Migration Projects may provide a useful device for dialogue on these issues.

The Americas

9. The region of Central America and the Caribbean is at present relatively peaceful. The underlying causes of the previous upheavals, however, are still manifestly present in the area. The current calm provides us with the right opportunity to implement measures that would prevent or reduce the hardships associated with population displacement.

10. In particular, multilateral cooperation would improve responses to crises, especially if it incorporates burden-sharing among States and active engagement by international organizations and NGOs. A planning institute at the political level could facilitate effective and humane management of migration and refugee emergencies and prevent such humanitarian disasters. The Forced Migration Projects have advocated the establishment of such an institute which should coordinate with the work of UNHCR.

Conclusion

11. The international community occupies a pivotal position in the fight to avoid or alleviate the plight of refugees and displaced persons in the regions in which we work. We urge a renewal of commitment and attention to achieve these critical objectives.